

WETLANDS COUNCIL

MINUTES

September 9, 2008

The Wetlands Council met on Tuesday, September 9, 2008 in room 112 at the Department of Environmental Services, 29 Hazen Drive, Concord, NH

Attendees: Chairman Lawrence E. Morse, Vice Chair John S. Cobb, Paul Dionne, Chip Kimball, Dennis Lydon, Thomas Sloan, Dari Sassan, Russ St. Pierre and David Thompson

Absentees: Sharon Champagne, Steve Perry, and Seth Prescott

Also present were: Amy Samson, Council Appeals Clerk, and Carolyn Guerdet, Council Clerk.

The meeting was called to order by Chairman Morse at 9:00 with a quorum present.

1. Approval of Minutes of August 12, 2008 Council Meeting

A motion was made by Councilor Thompson to accept the August 12, 2008 minutes as printed, second by Councilor Lydon. Motion was voted unanimously.

Councilor Sloan joins the meeting.

2. Wetlands Bureau Update

Mary Ann Tilton, Assistant Administrator, reported on the following staffing:

Vacant positions are:

Environmentalist II, was just advertised outside the bureau and 17 qualified applications were received.

2 Shoreland Positions: Env III, Shoreland Compliance and Env III Shoreland Permitting Environmentalist IV, position for Route 93 project partnership with DOT.

Nancy Perry who had worked for the Wetlands Bureau for over 20 years has retired.

Grants: DES and DRED have met as part of an intergovernmental review process. The Bureau has received EPA funds in the amount of \$296,000 and DRED has received an amount close to this for a similar project for the Ashuelot River Watershed Grant. The goal is to work together, amend the grant, and have a better project. The grant proposed a model and then plans to adapt it to create a GIS model for other watersheds to develop mitigation plans. She then introduced Lori Sommer, Mitigation Coordinator, who is overseeing the operation of the aquatic resource mitigation plan. After the site selection committee has looked at applications for the funds that have been collected for restoration or land protection, the recommendations will be presented to the Wetlands Council to authorize the funds for dispersal. The first recommendations will come before the Wetlands Council approximately in April 2009.

Mary Ann noted that as of today information can be received electronically so new email storage space is being developed.

3. Review of Council Rules

- 1) Gretchen reviewed the proposed amendments to Env-Wq 1400 and revisions that legal counsel has suggested. The interim rules will expire in December.

A motion was made by Councilor Lydon that Chairman Morse be given the authority to review and approve the changes to the Shoreland Interim Rules and allow them to move forward as soon as they are finished, second by Councilor Dionne. Motion passed unanimously.

- 2) Gretchen Hamel reviewed the Draft Initial Proposal 9.5.08 changes that the Council and legal counsel had suggested for:

Env - WtC 100 – Definitions, Organization and Public Information and
Env - WtC 200 – Practice and Procedure

A motion was made by Dennis Lydon to approve the changes as presented and reviewed by the Council, second by Councilor Cobb. Motion passed unanimously.

Chairman Morse signed the transmittal memos provided by Gretchen for the Fiscal Impact Statement Request and the Rule Making Notice.

Due to the statute changes, opening statements for the Pre-Hearing Conference and Appeals Hearings will need to be re-drafted by Wednesday, September 17, 2008. Attorney Blenkinsop will be asked to draft them.

Council went into a recess at 10:10 AM.

Chairman Morse called the meeting back to order at 10:17 AM.

4. Status Report -

Amy Samson, Council Clerk, reviewed the following:

New appeals to accept or deny:

No new appeals to accept or deny today.

Appeals transferred from the Water Council to the Wetlands Council:

- Docket No. 08-33 WtC (Formerly Docket No. 08-06 WC) Marlene & Jerry Schultz Appeal
Water Council held a Pre-Hearing Conference with the parties on May 19, 2008. At the PHC, a 30 day stay was granted. As no status report was received a PHC will be scheduled for October 28, 2008 at 2:30 PM with Councilor Thompson presiding as Hearing Officer.

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- Docket No. 08-34 WtC (Formerly Docket No. 08-15 WC) Ronald E. Gocht Appeal
Water Council held a Pre-Hearing Conference with the parties on June 9, 2008. At the PHC a 90 day stay was granted. As no status report was received a PHC will be scheduled for October 15, 2008 at 2:30 PM with Chairman Morse presiding as Hearing Officer.
- Docket No. 08-35 WtC (Formerly Docket No. 08-19 WC) Frank Faticanti Appeal
Appeal was received on March 28, 2008. A Pre-Hearing Conference has been scheduled for October 7, 2008 at 2:30 PM. Presiding Officer is Chip Kimball.
- Docket No. 08-36 WtC (Formerly Docket No. 08-21 WC) Susan A. Youseff Appeal
The Wetlands Council accepted the appeal on August 12, 2008. A Pre-Hearing Conference has been scheduled for October 7, 2008 at 8 AM. Presiding Officer is Chip Kimball.
- Docket No. 08-37 WtC (Formerly Docket No. 08-25 WC) Kenneth R. Ivester Appeal
On August 12, 2008 the Wetlands Council accepted this appeal. A Pre-Hearing Conference has been scheduled for October 7, 2008 at 9:30 AM. Presiding Officer is Chip Kimball.

Decisions that need to be written/finalized and issued:

- Docket No. 04-21 WtC – Lake Shore Realty & Trust c/o Robert E. Gayner WB #2001-01294
Chairman Morse is writing the Decision.
- Docket No. 06-12 WtC – Bodanza et al Appeal WB #2002-02483
Council has denied the appeal. Chairman Morse is writing the Decision.
- Docket No. 07-02 WtC – Town of Barrington: WB#2004-02817
The Decision has been finalized and was sent out Sept 8, 2008.
- Docket No. 07-09 WtC – Derry Conservation Commission WB #2006-00773
Attorney Blenkinsop will be writing the Decision.

Chairman Morse shared with the Council that Councilor Tom Christensen has resigned from the Wetlands Council.

- Docket No. 07-10 WtC – Renate Ranniger WB #2004-01185
Council has denied the appeal. Decision was issued on September 4, 2008.
- Docket No. 07-15 WtC – Charles Kalil WB #2006-02611
Decision will be sent out today.
- Docket No. 07-23 WtC – Steve Bragg: WB #2006-01494
A Pre-Hearing Conference needs to be scheduled.
- Docket No. 07-24 WtC – Town of Holderness Conservation Commission WB #2006-02635
Council has dismissed the Appeal.
- Docket No. 08-02 WtC – William D. Hughes Appeal: WB #2007-01174
Council has denied the Appeal. Councilor Kimball has drafted the Decision.

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- Docket No. 08-05 WtC – Rick Belanger Appeal: WB #2007-01624
Council has denied the Appeal. Councilor Kimball has drafted the Decision.
- Docket No. 08-12 WtC – Bill K. Lau Appeal: WB #2007-00398
Council has dismissed the appeal. Decision has been drafted and will be forwarded to Chairman Morse for review.
- Docket No. 08-38 WtC – Pickman & Sons Development Co. Appeal WB #2007-01160
The appeal was denied on August 12, 2008 as it was not timely filed.

Hearings or Pre-Hearing Conferences scheduled:

- Docket No. 06-11 WtC – Dennis Proulx : WB #2006-00769
Pre-Hearing Conference scheduled for September 30, 2008 at 8 AM. Presiding Officer is Chairman Morse.
- Docket No. 06-16 WtC – Shane Forest: WB #1999-01294
As no status report was received a Pre-Hearing Conference is scheduled for October 15, 2008 at 11 AM with Chairman Morse presiding as Hearing Officer.
- Docket No. 07-06 WtC – Patricia Woolson: WB #2006-02796
Pre-Hearing Conference scheduled for September 30, 2008 at 1 PM. Presiding Officer is Chairman Morse.
- Docket No. 07-07 WtC – Wendy McCarthy: WB #2006-02581
Pre-Hearing Conference scheduled for September 30, 2008 at 9 AM. Presiding Officer is Chairman Morse.
- Docket No. 07-14 WtC – Courtney Galuzzo: WB #2007-00291
As no status report was received a Pre-Hearing Conference is scheduled for October 15, 2008 at 1 PM with Chairman Morse presiding as Hearing Officer.
- Docket No. 07-27 WtC – Robert Bourgeois: WB # 2007-00473
Pre-Hearing Conference scheduled for September 30, 2008 at 11 AM. Presiding Officer is Chairman Morse.
- Docket No. 07-28 WtC – Concord Country Club: WB #2005-00474
As no status report was received a Pre-Hearing Conference is scheduled for October 15, 2008 at 8 AM with Chairman Morse presiding as Hearing Officer.
- Docket No. 07-30 WtC – Thomas & Kellie Greer Appeal: WB #2006-00460
Pre-Hearing Conference scheduled for October 1, 2008 at 8 AM. Presiding Officer is Councilor Lydon.
- Docket No. 08-01 WtC – Town of Newington Conservation Commission: WB #2007-0829-01
Pre-Hearing Conference scheduled for September 30, 2008 at 1 PM. Presiding Officer is Chairman Morse.

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- Docket No. 08-03 WtC – David Johnson-Johnqis Realty LLC Appeal: WB #2006-00700
Pre-Hearing Conference scheduled for October 1, 2008 at 9:30 AM. Presiding Officer is Councilor Lydon.
- Docket No. 08-04 WtC – Porter Trust Appeal: WB #2006-02705
Pre-Hearing Conference is scheduled for October 7, 2008 at 11 AM. Presiding Officer is Councilor Kimball
- Docket No. 08-07 WtC – Joseph and Rose Marino Appeal: WB #2007-00926
Pre-Hearing Conference is scheduled for October 15, 2008 at 9:30 AM. Presiding Officer is Chairman Morse.
- Docket No. 08-09 WtC – John Goode, et al Appeal: WB #2007-00933
Pre-Hearing Conference scheduled for October 1, 2008 at 11 AM. Presiding Officer is Councilor Lydon.
- Docket No. 08-13 WtC – Jeffrey Costura Appeal: WB #2007-01416
Pre-Hearing Conference scheduled for October 1, 2008 at 1 PM. Presiding Officer is Councilor Lydon.
- Docket No. 08-16 WtC Jumanna Stark Appeal WB #2007-00473
Pre-Hearing Conference scheduled for October 1, 2008 at 2:30 PM. Presiding Officer is Councilor Lydon.
- Docket No. 08-24 WtC – 127 Water Street Realty Inc. WB #2007-01794
Pre-Hearing Conference is scheduled for October 7, 2008 at 1 PM. Presiding Officer is Councilor Kimball
- Docket No. 08-28 WtC – James and Kim Gever Appeal WB #2008-00035
Pre-Hearing Conference is scheduled for October 14, 2008 at 1 PM. Presiding Officer is Councilor Thompson.
- Docket No. 08-31 WtC – Michele Walker Appeal WB #2007-02435
Pre-Hearing Conference is scheduled for October 14, 2008 at 2:30 PM. Presiding Officer is Councilor Thompson.
- Docket No. 08-32 WtC – William J. Wilson Appeal WB #2007-02744
Pre-Hearing Conference is scheduled for October 28, 2008 at 1 PM. Presiding Officer is Councilor Thompson.

No Action Required; previously pending cases.

- Docket No. 07-01 WtC – Robert & Betty Howland: WB #2006-01654
The parties are discussing a possible resolution. A letter will be sent by the end of the week to request status from the parties. Presiding Officer is Chairman Morse.

5. **Other Business.**

Chairman Morse will be meeting with Commissioner Burack next week with the goal of a joint letter from the Department and the Council going out to the other commissioners regarding the additional resources needed and time required by the Council.

There will also be discussion of yearly reports from the Bureau to the Council and from the Council to the Legislature.

6. **Next Meeting** - October 14, 2008.

7. **Adjournment** -

Councilor Sloan made a motion to adjourn, second by Councilor Lydon. Motion was passed unanimously.

Meeting was adjourned at 10:45 AM.